IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17547 of 2002

DATED: 28.11.2007

Between:

M Atchaiah petitioner

And

Superintending Engineer, Assessments
A.P.S.P.D.C.Ltd, Tirupati, Chittoor & ors Respondents

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17547 of 2002

ORAL ORDER:

This writ petition is filed questioning the proceedings dated 23.5.2002, rejecting the representation of the petitioner dated 17.5.2002 for reassessment of consumption charges, as illegal and arbitrary.

The petitioner herein is proprietor of M/s. Jayalaxmi Touring Talkies, Kolakaluru, Tenali mandal, Guntur district, having electricity connection bearing No. S.C 1104. On an inspection conducted by the officials of the electricity department on 7.2.1998, it was noticed that the petitioner has committed pilferage of electrical energy bye passing the meter due to tapping of one phase. Thereafter, on 10.3.1998 a notice was issued to the petitioner to pay an amount of Rs.27,416.25, against which the petitioner preferred an appeal to the Divisional Engineer and finally an assessment was made and petitioner was demanded to pay an amount of Rs.20,801/-. Thereafter, again on 5.7.1999 an inspection was conducted and it was noticed that the petitioner is pilferaging the electricity and the loss due to theft of energy from 6.7.1998 to 5.7.1999 was provisionally assessed and petitioner was issued with a notice dated 16.7.1999 to pay an amount of Rs.1,43,947/-. Against the said order, after lapse of about three

years, the petitioner preferred an appeal dated 17.5.2002 and the same was rejected by order dated 23.5.2002, as a time barred one. Hence, the present writ petition.

A counter affidavit is filed stating that the electricity service connection S.C No. 204 belonging to the petitioner was inspected by the Divisional Engineer and it was found that the petitioner is indulging in pilferage of energy and initial assessment notice dated 10.3.1998 was issued demanding an amount of Rs.27,416.25 and the petitioner having received the same deposited half of the demanded amount i.e., Rs.13,708/- and submitted an appeal to the Superintending Engineer. The Superintending Engineer, on consideration of the matter, finalized the estimated value at Rs.20,801/- and issued proceedings dt 23.11.2001. While so, again the service connection of the petitioner was inspected by the Assistant Divisional Engineer on 5.7.1999 and it was noticed that the petitioner is indulging in pilferage of the energy and the loss caused to the board from 6.7.1998 to 5.7.1999 was assessed as Rs.1,43,746.50 ps. It is also stated that the inspection was conducted by an independent organization in presence of Mr Gadde Venkata Rao, Operator of the theatre wherein it was found that the petitioner theatre is habituated to pilferage of energy, bye passing the meter in “R” phase. It is further stated that the final notice was issued on 17.12.1999 indicating that appeal if any should be preferred within a period of 30 days and petitioner failed to file the appeal within the stipulated time and after lapse of about three years submitted an appeal on 17.5.2002 and the same was rejected as time barred. It is also contended that the respondent Board has got

statutory power to collect the charges for theft of energy and malpractice and there is no illegality committed, warranting interference of this Court.

Heard the learned counsel for petitioner and learned standing counsel for respondents.

Admittedly, the petitioner was served with final assessment notice dated 17.12.1999, wherein it is clearly indicated that appeal, if any, has to be preferred to the Superintending Engineer Assessment/Vijayawada within a period of thirty days or the receipt of the copy of the notice, else the electricity supply will be disconnected. The respondent company is empowered to collect the consumption charges for the theft of electricity and malpractices if any committed. The petitioner, having kept quiet for about three years, submitted an appeal on 17.5.2002 requesting to reassess the consumption charges on the ground that only one show of movie was exhibited during the subject period. The said appeal was rejected by impugned orders, as a time barred one and the same cannot be found fault with, inasmuch as the contentions raised by the petitioners cannot be examined after lapse of three years, more particularly in the absence of any evidence. Be that as it may, it is also to be noted that the inspection was conducted by an independent agency and twice the petitioner was found pilferaging the energy. There are no merits in the writ petition and the same is liable to be dismissed. Accordingly, the same is dismissed. No costs.

N.V.RAMANA,J

DATED: 28.11.2007
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